IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

Crl.MC.No. 668 of 2007()

MC.29/2007 of THE SUB DIVISIONAL MAGISTRATE, THRISSUR

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PETITIONER: CR.PETITIONER IN MC

MURALEEDHARAN @ MURALI, AGED 38 YEARS,
S/O.LATE KRISHNAN, MULACKAL HOUSE,
VILLADAM, THRISSUR DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
SUB DIVISIONAL MAGISTRATE, THRISSUR,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.668 of 2007

Dated this the 13th day of March, 2007

ORDER

Request of the petitioner in this application under Section 482 Cr.P.C is very short and it does appear to me to be very reasonable. A conditional order has been passed under Section 133 Cr.P.C by the Sub Divisional Magistrate, Trichur. It is a conditional order as also an interim order under Section 142 Cr.P.C, both rolled into one. By the said order, the petitioner has been directed to appear before the Sub Divisional Magistrate and show cause as to why an elephant by name Mulackal Krishnan, belonging to him which had caused the death of its mahout earlier, should not be prohibited from taking part in various public festivals and programs. The same order directs that until further orders, the elephant should not be permitted to take part in any such festivals.

2. According to the petitioner, he promptly appeared before the Sub Divisional Magistrate on 09.03.2007. He has allegedly shown cause also. He contended that the conditional order is liable to be vacated. He contended that the order of injunction under Section 142 Cr.P.C is also liable to be vacated. The short grievance of the petitioner is that the Sub Divisional Magistrate, instead of proceeding to consider the prayer for dropping the conditional order and the

order of interim injunction, has posted the case to 04.05.2007. This causes great hardship and difficulties to the petitioner. It affects his civil rights. It affects his livelihood. In these circumstances, appropriate directions may be passed for the expeditious disposal of the petitioner's prayer to discontinue the proceedings or at least to lift the order of injunction passed under Section 142 Cr.P.C prohibiting the petitioner from allowing the elephant to take part in public functions. According to the petitioner, competent authorities have already certified that the petitioner's elephant can be permitted to take part in such functions/programmes.

3. I have no hesitation to agree that the request of the learned counsel for the petitioner is most legitimate. This Crl.M.C is, accordingly allowed and direction is issued to the Sub Divisional Magistrate to forthwith hear the petitioner and pass orders at least on his application to lift the order of injunction passed evidently under Section 142 Cr.P.C. Such order shall be passed within a period of 7 days from the date on which a copy of this order is placed before the learned Sub Divisional Magistrate.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-